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September 30, 1994

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MEMORANDUM

To: AF - George Moose
- Prudence Bushnell

Fm: USUN/W - David Scheffer

Re: Rwanda Meeting, 9-10 a.m., September 30

I have noticed that Agenda Item #2 for your White House Sit Room meeting on Rwanda this morning addresses the question of a war crimes tribunal for Rwanda. Please convey the following information at the meeting (which I could attend if you so desire):

- We expect delivery in Geneva today of the Commission of Experts interim report (which we were instrumental in accelerating). We fully expect the report to recommend immediate establishment of a war crimes tribunal, but not recommend precisely how that tribunal should be constituted (at our request).
- For weeks, USUN (with the support of L and the IWG on Rwanda War Crimes) has been laying the groundwork for action on a resolution when the Commission's interim report is issued.
- The initial USG proposal--to expand the existing War Crimes Tribunal to include Rwanda--was circulated among the P-5 three weeks ago and met stiff opposition from France and Russia. Therefore, at Monday's IWG meeting, we agreed to change course and support a compromise proposal presented by New Zealand. The New Zealand proposal would create two distinct tribunals, but with two key "bridges" between the Yugoslavia and Rwanda institutions: (1) a common appellate chamber--to insure consistency in the development of the law; (2) a common chief prosecutor, namely Justice Richard Goldstone, who already has the top spot on the existing War Crimes Tribunal. We are inclined to keep the official seat of the Rwandan tribunal in the Hague, but conduct much of the business--investigations and trials--in the region, including Kigali.
- On Wednesday, State sent an instruction cable to USUN, Paris, and Moscow to pursue the New Zealand compromise with

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the objective of reaching agreement this week on a text that could be tabled when the interim report is issued. A/S Shattuck and I (joined by Amb. Inderfurth) briefed the French, British, and Belgium delegations, as well as the Rwandan Perm Rep, on Wednesday in New York. Our proposal was very positively received.

-- We have placed high priority on getting the resolution adopted by early next week.

-- The next challenge will be staffing and funding for the Rwandan Tribunal. We have been working on this already and can report some progress with agencies in lining up candidates for the Rwandan tribunal. We have a big challenge ahead in the Fifth Committee of the General Assembly to get an adequate budget by December. Your White House group might consider what voluntary U.S. funding could be offered in the short term.

-- The IWG already has deployed a USG investigative team to Rwanda, and it is in-country now. We expect it to return with a significant amount of information that can be compiled for submission to the Commission of Experts (to help it prepare its final report) and to the Tribunal (once established).

-- The IWG also is preparing a second USG report to the Commission of Experts (the first was submitted in mid-August and was the first report from any government to the Commission). We hope to submit the second report by the end of next week.

-- Once the tribunal resolution is adopted by the Security Council, we will take up the detention resolution which will have a much better chance of serious consideration with the tribunal having been created (and thus providing a more identifiable basis for detention of war criminals in the front-line states and in Rwanda itself). We floated the timing of this on Wednesday in New York and France, Britain, and Belgium were more receptive to the detention resolution as a second step after the tribunal is created. (When first floated a few weeks ago, the detention resolution met very stiff opposition from Council members.)

-- The White House group would facilitate matters greatly if we could get your support to move the U.S. legislation that Mike Matheson has been working on to permit our arrest and prosecution, if necessary, of violators of international humanitarian law (genocide, etc.), rather than be in the impotent position of not having proper jurisdiction within the U.S. due to DOJ interpretation of international law. Could the group agree for Matheson to brief Kreczko and plot a legislative strategy to get action before adjournment? It should receive broad support in Congress, even on a rapid basis.

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